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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG LEK
)	
Plaintiff,)	DEFENDANT'S REVISED
)	CALCULATIONS OF BACK PAY
v.)	AND ANNUAL AND SICK LEAVE;
)	EXHIBIT "4"; CERTIFICATE OF
MICHAEL CHERTOFF, Secretary,)	SERVICE
DEPARTMENT OF HOMELAND)	
SECURITY,)	
)	
Defendant.)	
)	
)	

DEFENDANT'S REVISED CALCULATIONS
OF BACK PAY AND ANNUAL AND SICK LEAVE

Defendant Michael Chertoff, by and through his undersigned counsel, hereby submits the revised calculations required by this court's Order of June 20, 2008. A spreadsheet containing the calculations is attached hereto as Exhibit 4. The spreadsheet calculates the lost pay through Pay Period 11, which ends June 7, 2008. The calculations should reflect an additional three pay periods, through July 19, 2008, with a net loss of \$2687.65,

6 hours annual leave and four hours sick leave per pay period. Adding these figures to those on the spreadsheet reflects a total loss of \$316,697.14 in back pay, 677.5 hours of annual leave and 538.5 hours of sick leave.

Applying the terms and conditions of the Order produce the following results. Plaintiff should be awarded \$334,071.63 in back pay and interest (\$316,697.14 back pay plus \$31,669.71 in interest, minus \$13,906 mitigation earnings and \$389.22 in annual leave reimbursement (as explained in the next paragraph)). The leave calculations show that plaintiff should be awarded 677.5 hours of annual leave¹ and 526.5 hours of sick leave.

The annual leave figure includes 19.5 hours which plaintiff cashed in for \$389.22 when he left federal employment in December 2003. Because plaintiff is being restored to duty status for the period beginning October 19, 2003, he is not entitled to cash in the leave amount. Accordingly, the calculations show an annual

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¹Plaintiff should be aware that any unused leave balance above 240 hours at the end of the calendar year will be forfeited pursuant to 5 U.S.C. 6304.

leave balance that shows the 19.5 hours restored, and a back pay award that deducts the cash plaintiff received for the hours.

DATED: June 30, 2008, at Honolulu, Hawaii

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/s/ Thomas A. Helper
By _____
THOMAS A. HELPER
Assistant U.S. Attorney

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served Electronically through CM/ECF:

Daphne E. Barbee, Esq. June 30, 2008

desekmet@aloha.net

DATED: June 30, 2008, at Honolulu, Hawaii.

/s/ Myra Peterson
